

**STAFF REPORT
ZONING BOARD OF ADJUSTMENT**

**Thursday, February 14, 2019
9:00 a.m.
Room 105 Courthouse Annex
Cascade County Commissioners Chambers**

SUP #001-2019

Subject Property Information

Name of Applicant & Owner:	Paul Leach Venture Property & Leasing, LLC. 1900 32 nd Ave Black Eagle, MT 59414
Legal Description:	S34, T21N, R1W, IN NWSW MKS 8A and 8B
Geo-Code(s):	02-3135-34-3-01-07-0000
Parcel Number(s):	0006171500
Existing Zoning:	Agricultural (A)
Requested Action:	Approval of a Special Use Permit to allow a Value-added Agricultural Commodity Processing Facility
Surrounding Land Uses / Zoning:	North: State Hwy and Farming / A South: Public / State East: State Road and Agricultural / MU West: Residential / A
Current Land Use:	Farm Retail Store
Applicable Regulations:	Sections 10 and 7.2.4(27) Cascade County Zoning Regulations

General Information:

The Cascade County Zoning Board of Adjustment is in receipt of a Special Use Permit application #001-2019 from Paul Leach of Venture Property & Leasing,

LLC to allow a Value-added Agricultural Commodity Processing Facility on their property in Section 26 of Township 21N, Range 1W, NWSW MKS 8A and 8B in Cascade County, MT. The applicant is requesting that a Special Use Permit be granted as required by Section 7.2.4(27) of the Cascade County Zoning Regulations.

General Provisions

A special use is a use for which conformance to additional standards will be required and shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, in addition to other applicable requirements of these regulations. All such uses are hereby said to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

A special use permit may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the "Uses Permitted Upon Issuance of a Special Use Permit as Provided in Section 10" within the respective zoning districts contained in Section 7 or Section 8.1.5 hereof. After the public hearing is closed, the Zoning Board of Adjustment can approve, deny, or approve with conditions the Special Use Permit. A separate Special Use Permit shall be required per each tract of land. The Special Use Permit fee shall be \$450.00.

Expiration

The Zoning Board of Adjustment approval of the Special Use Permit shall be valid for only one particular use and shall expire one year after the date of approval, if construction or the use has not started. The Zoning Administrator may grant a one-time only six (6) month extension of the Zoning Board of Adjustment approval.

The Special Use Permit shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the Zoning Board of Adjustment prior to the date of expiration.

Findings of Fact:

1. The property is in the Agricultural (A) Zoning District. The proposed use is allowed in the Agriculture District pursuant to Section 7.2.4(27) of the Cascade County Zoning Regulations. *"Agricultural District...Uses Permitted Upon Issuance of a Special Use Permit...Value Added Agricultural Commodity Processing Facility."*
2. Venture Property & Leasing, LLC. (hereinafter, Venture) is the legal owner of the property.

3. The property is not known to be in violation of any Cascade County, State, or Federal regulations or laws and county taxes are current.
4. Legal Notice of the application and the public hearing was published in the Great Falls Tribune on February 3, 2019 and February 10, 2019. Legal Notice was sent to adjacent property owners on January 31, 2019. Staff have received one favorable public comment from Dana Nyquist via phone. There have been no other public comments at this time.
5. A special use permit may be revoked by the Cascade County Board of Adjustment at any time a building(s) or use(s) is deemed to be in violation of the standards and zoning requirements under which the special use permit was issued. A violation of a special use permit will be handled as any other violation under Section 13 of these regulations.
6. Appeals of the Zoning Board of Adjustment decision shall follow the process outlined in Section 12 of the Cascade County Zoning Regulations.
7. Access to the facility is from an existing approach off Montana Highway 200 on the northwest border of the property.

Findings with Respect to the Analysis Criteria

Staff provides that the following analysis, findings and conclusion for each of the required criteria and conclusions provided under the controlling sections of the Zoning Regulations.

1. Conditions may be required that the Zoning Board of Adjustment determines if implemented, will mitigate potential conflicts to reach these conclusions.
2. The proposed development will not materially endanger the public health or safety.

Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb approaches:

Applicant: 6 employees coming and going from work each day. 2 semi-trucks each week or equivalent.

Staff: Marginal impacts to traffic on Montana Highway 200 are anticipated. Sight lines appear to be unobstructed from

this proposed use. The Montana Department of Transportation (MDT) has indicated that they have no concerns with the proposed use. However, they will require a new Driveway Approach Application and Permit to update the current owner's information and description of use. Staff recommends that an approved Driveway Approach from MDT be a condition of the permit.

- b. Provision of services and utilities including sewer, water, electrical, garbage collections, and fire protection.

Applicant: All services are existing. Septic is on-site. Sun River Fire Dept. serves the area. Sun River Electric – Northwest Energy (gas).

Staff: Provision of services for the site appears sufficient. No comments were received from Sun River VFD, Sun River Electric, and Northwest Energy during solicitation of comments from interested agencies.

- c. Soil erosion, sedimentation, and stormwater run-off.

Applicant: Existing – stormwater run off is contained on-site.

Staff: Impacts to soil erosion and sedimentation from the proposed operation are expected to be marginal. Several natural and artificial drainage reservoirs exist on the site for stormwater run off.

- d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

Applicant: Will not impact any water supplies.

Staff: Impacts to water supply are expected to be consistent with the impact produced by the existing on-site septic system. Applicant has claimed that waste produced from processing hemp to extract the CBD isolate will be stored in barrels and not dumped on-site. No comments were received from the City-County Health Department during solicitation of comments from interested agencies.

- 3. The proposed development is a public necessity, or will not substantially impact the value of adjoining property.

Considerations:

- a. The relationship of the proposed use and the character of the development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: Will be no impact on adjacent properties.

Staff: No impacts to adjacent owners or conflicts are anticipated. Sufficient buffers currently exist between the proposed operation site and the residence to the south of the property.

- b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or county as whole, to justify it regardless of its impact on the value of adjoining property.

Applicant: This project will bring value to the community and provide jobs.

Staff: No impacts to the value of adjoining properties are expected from this proposed operation.

4. The proposed development will be in harmony with the area in which it is located.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: The facility is existing and do not foresee any conflicts.

Staff: No conflicts are anticipated. Staff have received no comments/concerns from adjacent landowners at this time.

5. The proposed development will be consistent with the Cascade County Growth Policy.

Considerations:

- a. Consistency with the growth policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its location standards.

Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.

- A. *Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining, manufacturing/processing and forest products.*

Applicant: Use existing land and buildings to add value to the industrial hemp business and farmed products.

Staff: The proposed use constitutes a retention of value-added agricultural business. The operation and benefits to associated agricultural operations growing industrial hemp and corn stimulates the expansion of existing businesses.

- B. *Stabilize and diversify the county's tax base by encouraging the sustainable use of its natural resources.*

Applicant: Create jobs and add value to farm products, specifically industrial hemp.

Staff: The proposed use will diversify the county's tax base through revenues generated from providing a local supply for a growing market demand for CBD products. Sustainability of the operation is debatable due to two main contingencies: market conditions and the production processes involved in hemp and corn as well as their derivative chemicals.

- C. *Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.*

Applicant: Add value to farmed products

Staff: The proposed use is a primary business development that is complementary to existing local hemp operations and corn operations throughout the country. The re-utilization of an existing facility exemplifies the utilization of existing assets.

- D. *Promote the development of cultural resources and tourism to broaden Cascade County's economic base.*

Applicant: Do not expect tourism to benefit from farm processing facility.

Staff: The proposed use is not applicable to this objective beyond perpetuating the cultural heritage of industrial agriculture in the region.

- E. Foster and stimulate well-planned entrepreneurship among the county's citizenry.*

Applicant: Local people will be employed and local engineers will be used for various aspects of the facility.

Staff: The proposed use is not directly associated with entrepreneurship development; however, indirect benefits may occur from the proposed use.

- F. Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.*

Applicant: Add value to the local Ag community.

Staff: The proposed use is not directly associated with supporting a strong local business environment through development organizations; however, indirect benefits may occur from the proposed use.

- G. Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses.*

Applicant: Processing in Cascade County means the jobs and business does not go to other counties or states.

Staff: The proposed use is a new business and an improvement to local trade capture through the value-added processing of locally produced hemp.

- H. Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County's interdependence with other communities and to leverage available local resources.*

Applicant: Will be exploring opportunities to expand the process to make hemp seed oil. Benefit to local engineering companies.

Staff: The proposed use exemplifies the interdependence of agricultural communities, both locally and nationally, by utilizing

raw and preprocessed agricultural commodities to create a value-added product and is directly a leveraging of local resources.

- I. Encourage the growth of the agricultural economy.*

Applicant: The feedstock to the plant is an Ag product.

Staff: The proposed use is a direct contribution to the growth of the agricultural economy through the utilization of crops and crop products in the production of a value-added product that meets a market demand.

- J. Stimulate the growth of the economy by encouraging the use of alternate methods of energy production, including wind energy.*

Applicant: This will not produce energy.

Staff: The proposed use utilizes corn ethanol which is fully biodegradable and results in lower greenhouse gas emissions compared to gasoline. Through this consumption, the proposed use stimulates the growth of the alternative energy economy.

GOAL 2: Protect and maintain Cascade County's rural character and the community's historic relationship with the natural resource development.

Objectives:

- A. Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.*

Applicant: The feedstock is a farm crop in an Ag community.

Staff: The proposed use in this application constitutes the continuance of agriculture in the County.

- B. Preserve Cascade County's scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.*

Applicant: The building was a Farmer's Union retail outlet. Bring to facility back to life will improve the appearance and will not degrade the environment.

Staff: The proposed use serves preservation/conservation by re-utilizing existing buildings rather than constructing new facilities by preventing the expansion of habitat disturbance produced by new development projects and environmental degradation associated with the sourcing of raw materials for development.

- C. *Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.*

Applicant: It is next to the town of Sun River and not close enough to have any impact.

Staff: The proposed use is located in close proximity to the town of Sun River and thus preserves open space by locating industry near existing towns.

- D. *Assure clean air, clean water, a healthful environment and good community appearance.*

Applicant: The project will be Ag based and will not impact water or environment, and will clean up the existing site and community appearance.

Staff: The cleaning of the existing facilities promotes good community appearance while the use, recovery and reuse of biodegradable materials assures minimal impacts to the environment.

- E. *Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production.*

Applicant: Will use farm grown industrial hemp.

Staff: The proposed use supports the development of corn ethanol and growth of hemp.

- F. *Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields process.*

Applicant: This is not a superfund or Brownfield site.

Staff: The site of the proposed use and structure is not associated with Superfund or the Brownfields programs.

GOAL 3: Maintain Agricultural economy

- A. *Protect the most productive soil types.*

Applicant: This project will not disturb productive soil.

Staff: Marginal impacts to productive soils are anticipated as the structures on the site are pre-existing.

B. Continue to protect soils against erosion.

Applicant: *The existing site does not have erosion issues and the project will not change that.*

Staff: Marginal impacts to soil are anticipated.

C. Protect the floodplain from non-agricultural development.

Applicant: *There will be no impact to the existing floodplain.*

Staff: The site of the proposed use is in the floodplain, however, the buildings involved are pre-existing. No further impacts will be created.

D. Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.

Applicant: *Industrial hemp is currently grown in the area and this will be a value-added product: CBD isolate.*

Staff: The proposed use is a development of value-added agricultural industry in the County and would utilize industrial hemp grown in the regional area.

GOAL 4: *Retain the presence of the US Military in Cascade County.*

Objectives:

A. Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.

Applicant: *This project is not close to any military activities. We anticipate no impact to military missions.*

Staff: Staff does not believe that this application will have any impact on the presence or mission of Malmstrom AFB in Cascade County. The nearest launch facility is approximately four miles away.

B. Promote the location of additional military missions in Cascade County.

Applicant: *This project is not close to any military activities. We anticipate no impact to military missions. The nearest silo is at*

least 3 miles south and east. No impact associated with military affairs.

Staff: No expected impact.

C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.

Applicant: This project is not close to any military activities. We anticipate no impact to military missions.

Staff: No expected impact.

D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.

Applicant: This project is not close to any military activities. We anticipate no impact to military missions.

Staff: No expected impact.

GOAL 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.

Objectives:

A. Maintain Cascade County's citizens independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.

Applicant: The project will be in an existing facility and will not impact citizens' independent lifestyle.

Staff: The proposed use will provide employment for 2-6 employees and thus facilitate independence for those citizens.

B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.

Applicant: The project will be inline with Cascade County Ag rich heritage.

Staff: The proposed use will preserve county cultural heritage in agriculture by virtue of its agricultural character.

- C. *Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface.*

Applicant: Fire prevention to protect wildland-urban interface is and will be addressed.

Staff: The property is located in the wildland-urban interface (WUI) with low-risk terrain/fuel hazard according to the 2008 Cascade County Community Wildfire Protection Plan. Since storage of plant fiber and corn ethanol is proposed to occur on the premises, there's a need for addressing fuel mitigation and fumigation for stored ethanol.

- D. *Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.*

Applicant: Parts of the processing facility will require technical training and unique skills that we will provide.

Staff: The on-the-job training mentioned by the applicant encourages the development of educational programs.

- b. Consistency with the municipal and joint land use plans incorporated by the Growth Policy.

Applicant: N/A, the facility is existing. No impact is anticipated with the military.

Staff: The proposal will not have a negative impact on the municipal or joint land use plans and is likely to have a significant positive effect on the local and regional economy.

Section 10.7 Operations

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

Motions:

The following motions are provided for the board's consideration:

Alternative 1: Move the Special Use Permit to allow a Value-added Agricultural Commodity Processing Facility on Parcel 0006171500,

Geocode 02-3135-34-3-01-07-0000 be **denied** (ZBOA member proposing denial must delineate legal reason that the application be denied); or

Alternative 2: Move the Board adopt the staff report and **approve** the Special Use Permit for a Value-added Agricultural Commodity Processing Facility on Parcel 0006171500, Geocode 02-3135-34-3-01-07-0000 subject to the following conditions:

1. The applicant obtains approval from the City-County Health Department for the change of use.
2. The applicant obtains a Driveway Approach Permit from the Montana Department of Transportation.
3. The applicant obtains any other county, state, or federal permits required by the respective agency for the legal operation of the proposed use.
4. The applicant adheres to all relevant building code requirements established by the Department of Labor and Industry.
5. Operation hours and days be limited to 7:00 AM to 7:00 PM, Monday through Saturday.

Attachments:

- Attachment A: Special Use Permit Application, Location/Conformance Permit Application, Facility Site Plan, Zoning Map, Adjacent Owners Map, Copy of Section 7.2.4 of the Cascade County Zoning Regulations, MDT Comment, Email from Paul Leach concerning ethanol storage and fuel mitigation.

cc: Venture Property & Leasing, LLC.